

**LEGISLATIVE SERVICES AGENCY
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FISCAL IMPACT STATEMENT

LS 6658

BILL NUMBER: SB 164

NOTE PREPARED: Jan 15, 2012

BILL AMENDED:

SUBJECT: Tax Credit for Hiring Certain Individuals.

FIRST AUTHOR: Sen. Randolph

FIRST SPONSOR:

BILL STATUS: As Introduced

FUNDS AFFECTED: ☒ **GENERAL**
☐ **DEDICATED**
☐ **FEDERAL**

IMPACT: State

Summary of Legislation: The bill provides a nonrefundable tax credit to a small business (employing fewer than 150 employees, the majority of whom are in Indiana) for employing an individual who is receiving unemployment benefits or returning from military service (qualified employee). It provides that the small business must employ a greater number of full-time employees in Indiana in the taxable year than the small business employed in Indiana, on average, in the small business's base employment period (generally January 1, 2010, through June 30, 2010). It provides that the employee must be hired full time. Provides that the credit applies only to taxable years beginning in 2012 through 2014. It provides that the credit is \$3,000 per qualified employee limited to \$100,000 per small business. It provides that the small business may carry any excess credit over to not more than three subsequent taxable years. It also provides that the small business forfeits 50% of the amount of the tax credits attributable to the employment of a qualified new employee, if within 18 months after the qualified new employee was initially hired: (1) the qualified new employee is terminated, laid off, or otherwise reclassified to a position that is not a full-time employment position with the small business; or (2) the position created for the qualified new employee is eliminated.

Effective Date: January 1, 2012 (retroactive).

Explanation of State Expenditures: The DOR will incur additional expenses to revise tax forms, instructions, and computer programs to reflect the tax credit established by the bill. The DOR's current level of resources should be sufficient to implement these changes.

Explanation of State Revenues: *Summary:* The bill establishes a tax credit for certain small businesses that employ qualified new employees during 2012, 2013, or 2014. To be eligible, the small business must have been in existence and employing full-time employees in Indiana before January 1, 2012. The tax credit is

equal to \$3,000 for each qualified new employee the small business employs during the taxable year, up to \$100,000. As a result, if a small business initially employs a qualified employee in 2012 and retains that employee during 2013 and 2014, the small business is entitled to a \$3,000 tax credit for that employee in each of the three years. Generally, a qualified new employee is an individual initially employed by a small business after December 31, 2011, in excess of the small business's base employment level. The base employment level is based on the small business's employment during the first six months of 2010, if the business operated in Indiana on January 1, 2010; or the business's initial six months of operation, if the business began operating in Indiana after January 1, 2010. To obtain the full tax credit, the small business must retain the qualified new employee for at least 18 months.

The cohort of businesses estimated to have been operating on January 1, 2010, could potentially claim \$4.1M to \$11.7 M in credits annually in 2012, 2013, and 2014 for qualified new employees these businesses initially employ in 2012 and retain in 2013 and 2014. The fiscal impact of these credit totals would likely occur in FY 2012, FY 2013, and FY 2014. The potential revenue loss from small businesses commenced operations in Indiana sometime during 2011 is indeterminable, but assumed to be significant.

Background Information: The tax credit is \$3,000 per qualified new employee employed during the tax year, up to a maximum of \$100,000 per small business in a tax year. The tax credit is nonrefundable, but a taxpayer may carry over excess credit amounts for up to three years. The tax credit may not be carried back. The tax credit is limited to a taxpayer that is a small business that operated with full-time employees in Indiana before January 1, 2012. A small business is a business entity that: (1) employs no more than 150 employees on at least 50% of the working days of the business entity during the year; and (2) has the majority of its employees working in Indiana.

A small business is entitled to the credit for qualified new employees it employs during 2011, 2012, or 2013 in excess of its base employment level. The base employment level is: (1) the average employment by the small business during the first six months of 2010, if the small business was in existence and operating in Indiana on January 1, 2010; or (2) the average employment by the small business during its initial six months of operation, if the small business began doing business in Indiana after January 1, 2010, but before January 1, 2012. The bill also contains a clawback provision under which the small business would forfeit 50% of the tax credit if the qualified new employee is not retained for at least 18 months after initial employment.

A qualified new employee must be employed for at least 35 hours per week and be paid an income of at least 200% of the federal hourly minimum wage. In addition, the qualified new employee must meet all of the following criteria:

- (1) Have been initially hired into a position as a full-time employee by the small business for the first time after December 31, 2011.
- (2) Be, at the time the small business initially employs the individual after December 31, 2011, an individual who is receiving or has exhausted state or federal unemployment insurance benefits; or be a former member of the U. S. military who received an honorable discharge.
- (3) Is not an individual who was employed by a related member of the small business.
- (4) Is not a child, grandchild, parent, or spouse of any individual who is an employee of the small business or who has a direct or an indirect ownership interest of at least 5% of the business.

The estimated revenue loss is based on matching of quarterly employer reports filed for purposes of unemployment compensation taxes. The matches were utilized to compare the most current reported

employment at businesses to their base employment level. Employer records reporting no employees or more than 150 employees, an average wage of less than \$30,000, and having employment levels below the base employment level were excluded from the analysis as not qualified for the tax credit. Employment growth at qualified businesses is based on the estimated response of employment levels to the reduction in wage cost due to the tax credit. The response rates are assumed to range from a 1.5% to 3% increase in employment for a 10% reduction in wage cost.

Explanation of Local Expenditures:

Explanation of Local Revenues:

State Agencies Affected: DOR.

Local Agencies Affected:

Information Sources: OFMA Employer Tax databases 2008-2009.

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